IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

Crl.Rev.Pet.No. 2433 of 2007()

CRA.235/2003 of ADDL. SESSIONS COURT (ADHOC)-II, ALAPPUZHA
CC.196/1999 of JUDL.MAGISTRATE OF FIRST CLASS-I, CHERTHALA

.....

REVN. PETITIONER: REVISION PETITIONER/APPELLANT/ACCUSED

MADANAN, S/O.RAGHAVAN,
KARAVANPARAMBIL HOUSE, WARD NO.2,
VAYALAR PANCHAYATH.

BY ADV. SRI.R.BINDU (SASTHAMANGALAM)
SRI.PRASANTH M.P

RESPONDENTS: RESPONDENT/COMPLAINANT

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 19/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl. R.P. No. 2433 OF 2007

Dated this the 19th day of July, 2007

O R D E R

Heard both sides.

2. The accused in C.C.No.196/1999 on the file of the JFCM-I, Cherthala, challenges the conviction entered and the sentence passed against him concurrently by the the courts below for offences punishable under sections 324 and 326 IPC.

3. The case of the prosecution is that on 16.10.1998 at about 8.15 p.m. the accused hit PWs 1 and 2 with a wooden piece causing serious injuries on PW1's face and grievous injuries to PW2, who sustained fracture of the cheek bone and dislocation of two teeth besides other injuries. The revision petitioner was sentenced to undergo simple imprisonment for six months under section 324 IPC and simple imprisonment for one year under section 326 IPC with a direction to pay Rs.2,500/- (Rupees two thousand five hundred only) to PW1 and Rs.7,500/- (Rupees seven thousand five hundred only) to PW2 by way of compensation under section 357(3) Cr.P.C.

4. Eventhough the learned counsel for the revision

petitioner assailed the conviction entered and the sentence passed against him, the conviction has been recorded after evaluation of the oral and documentary evidence in the case. The lower appellate court has also confirmed the conviction. This court, sitting in the rarefied revisional jurisdiction, will be loathe to interfere with the concurrent finding regarding the conviction entered against the revision petitioner and the same is accordingly confirmed.

5. What now survives for consideration is the question of adequacy of the sentence. A perusal of the evidence shows that the occurrence took place on the spur of the moment without any pre-meditation. Under these circumstances, I do not think that penal servitude by way of incarceration should be imposed on the revision petitioner and that the interests of justice will be adequately met by directing him to suffer imprisonment till the rising of the court and to pay an appropriate amount of compensation in excess of what has been awarded by the courts below. Accordingly, for his conviction under sections 324 and 326 IPC, the revision petitioner shall undergo imprisonment till the rising of the court. He shall, however, pay a sum of Rs.5,000/-

(Rupees five thousand only) to PW1 and Rs.10,000/- (Rupees ten thousand only) to PW2 by way of compensation under section 357 (3) Cr.P.C. instead of Rs.2,500/- (Rupees two thousand five hundred only) and Rs.7,500/- (Rupees seven thousand five hundred only) awarded by the courts below. The compensation shall be paid within 30 days from today, failing which the revision petitioner shall undergo simple imprisonment for three months by way of default sentence.

This revision is disposed of as above.

(V. RAMKUMAR, JUDGE)

aks